

REMARKS

Claims 13-24 were pending in this application. Claim 23 has been cancelled. Claims 13-22 and 24 have been amended. Specifically, independent claims 13, 20 and 24 have been amended for clarity purposes. Independent claim 20 has been amended to depend from independent claim 13 and add further limitations to the claimed apparatus. The dependent claims have been amended to comport with proper United States Patent practice, including proper antecedent basis. No new claims have been added and no new subject matter is believed to have been added by these amendments. Therefore, claims 13-22 and 24 remain in this application. Reconsideration is requested.

Restriction Requirement

The Examiner asserts that the present invention contains two patentably distinct Species:

- I. Claims 13-19 and 24 drawn to an apparatus and method for dispensing elongate objects comprising a segregating wheel and conveyor; and
- II. Claims 20-23 drawn to a device for dispensing and planting stakes featuring an orienting gripper.

The Examiner contends that the inventions do not relate to a single general inventive concept, as Group I has a separate utility than Group II. Specifically, the Examiner contends that Group II has “separate utility such as clamping workpieces.”

Applicant submits that the Examiner has not set forth a viable separate utility (See MPEP §806.05(c)). The apparatus of Group II (even prior to the current amendments) is

not conducive to being able to clamp workpieces. For example, there is no clamping mechanism set forth in claim 20. In fact, claim 20 (of Group II) contains substantially the same limitations as set forth in claim 13 (of Group I), but for the use of a series of dispenser assemblies set forth in claim 20. To better illustrate the claimed subject matter in claim 13 and 20, the Examiner is requested to refer to FIGS. 1b and 7 of the instant application. Specifically, FIG. 1b discloses a single dispenser assembly, whereas FIG. 7 discloses the single dispenser assembly of FIG. 1b in a series arrangement. Accordingly, the overall functionality of the apparatus in FIG. 1b and FIG. 7 is substantially the same in that plant stakes are dispensed into position for insertion into pots. Use of the device in FIG. 7 allows the stakes to be dispensed more quickly. In any case, the devices shown in FIG. 1b and FIG. 7 do not have a viable separate utility.

Furthermore, the Examiner would be required to search the same classes to the same extent, irrespective of which inventive Group is elected. Accordingly, Applicant believes that no serious burden exists on the Examiner in examining all of the claims in a single application. Applicant respectfully requests that the Examiner consider claims 13-22 and 24 as a single inventive concept and withdraw the Restriction Requirement. With respect to claim 21, Applicant has amended the claim to depend from independent claim 13 to require that the claimed invention include a trough for receiving the dispensed stakes. Claim 22 still depends from claim 21. Claim 23 has been cancelled.

In the event the Examiner maintains the Restriction Requirement, Applicant hereby elects to prosecute the invention of Group I, claims 13-19 and 24, with

traverse. Applicant makes this election without prejudice to the later filing of a divisional application directed to the non-elected claims.

Respectfully submitted,

THE WEBB LAW FIRM

By 

William H. Logsdon
Registration No. 22,132
Attorney for Applicant
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
Telephone: 412-471-8815
Facsimile: 412-471-4094
E-mail: webblaw@webblaw.com